

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT WAYNE WASHINGTON,

Plaintiff,

v.

STEVEN M. YAPLEE,

Defendant.

Case No. 1:20-cv-01356-EPG (PC)

ORDER RE: JOINT STATEMENT

(ECF No. 88).

The Court has reviewed the parties' joint statement and proposed plan to address the statute of limitations issue(s) presented by this case. (ECF No. 88). Accordingly, IT IS ORDERED that:

1. The parties shall each file briefs addressing whether or not the Plaintiff's 602 Health Care Grievances and Appeal, found at Doc. 17, pages 12-35, tolls the statute of limitations. **Further, the parties shall include in their briefing the legal authority they believe governs such a judicial determination at this stage in the case;**
 - a. If it is decided that one or more of the Plaintiff's 602 Health Care Grievances and Appeals serves to toll the applicable statute of limitations, then the Court will issue an order stating such and the trial will proceed forward on the merits;
 - b. If the Court decides that one or more of the Plaintiff's 602 Health Care

Grievances and Appeals does not serve to toll the applicable statute of limitations, then the Court will issue an order addressing the accrual date issue as described below.

2. The parties' briefs shall also address whether the accrual date of the statute of limitations can be determined by the Court as a matter of law, and if so, whether Plaintiff's complaint is timely or barred by the statute of limitations. If the accrual date cannot be determined by the Court as a matter of law, then the statute of limitations issue will be presented to jury.
3. Both Defendant and Plaintiff shall separately submit initial argument and points and authorities addressing the issues described above on or before June 16, 2023;
4. Both Defendant and Plaintiff shall submit responses to opposing party's initial argument and points and authorities on or before June 26, 2023.

IT IS SO ORDERED.

Dated: May 30, 2023

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE